

***A Balancing Act: Cost, Compliance, and Competitiveness after Sarbanes-Oxley***

**Opening Statement by Chairman Patrick McHenry**

Committee on Government Reform  
Subcommittee on Regulatory Affairs

Monday, June 19 2006, 10:00 a.m.  
U.S. Customs House at 1 Bowling Green, New York, NY 10004

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Good morning. The Subcommittee on Regulatory Affairs will come to order. I would like to welcome everyone to our hearing today entitled: "A Balancing Act: Cost, Compliance, and Competitiveness After Sarbanes Oxley."

I am very pleased to be here at the historic Alexander Hamilton Custom's House in Lower Manhattan and I have brought with me some of the most distinguished Members of the U.S. House of Representatives. Unfortunately, Chairman Candice Miller is unable to attend today's hearing due to family health concerns.

New York City has long been considered the Financial Capital of the World – although we in North Carolina are proud of our contributions to the financial services community as well. The reason why we are holding this hearing in Manhattan is because there is a growing concern that due to certain regulatory measures, America - New York - is losing its lead as the financial capital to foreign exchanges.

To illustrate this point, I would draw your attention to a *Wall Street Journal* article from January 26, 2006 that reported: "in 2000: nine out of every ten dollars raised by foreign companies through new stock offerings were done in New York....But by 2005, the reverse was true: Nine of every ten dollars were raised through new company listings in London or Luxembourg..."

Furthermore, on Tuesday, May 30, 2006, the *Journal* noted that of the world's top 10 Initial Public Offerings (IPO's) since the passage of Sarbanes-Oxley, only one occurred on Wall Street.

Finally, it is hard not to conclude that the recently announced merger of the New York Stock Exchange with Euronext is due in part to their desire to recapture these lost listings. Indeed, The Wall Street Journal on Friday, June 2nd said just this: that one factor pushing NYSE toward Euronext is the shriveling of initial public offerings by international companies amid a tougher U.S. regulatory environment.

Because of accounting scandals at companies like Enron or World Com- Congress passed the Sarbanes-Oxley Act that requires significant new disclosure and severe penalties for corporate officers that violate the law.

This bill does offer some solid guidance to businesses - but unfortunately, the implementation of Section 404- a section just 168 words long- has resulted in some unintended consequences that have become a huge handicap for American business.

I've met with many bank and business leaders in North Carolina as well as around the country - and they agree: Sarbanes-Oxley has made a dramatic, and sometimes negative, impact on the capital markets. Transparency in corporate governance is important. However, as a rule, less government regulation translates to more productivity, economic expansion and job growth.

Congress did not intend to handicap U.S. businesses with these huge costs. Original SEC estimates said the annual compliance cost for the average firm would be \$91,000. Today- the average firm spends \$3.7 million to comply with the requirements of Sarbanes Oxley. The SEC underestimated the cost by a factor of 40- and that is after compliance costs have decreased! In fact a regional community bank in my district spent \$500,000 or more in direct costs to comply with the first round of auditing.

With this high cost, I am concerned that Sarbanes Oxley has become an unwitting accomplice to assisting our foreign competitors take away American jobs and take away listings from the American Exchanges. Some of these foreign exchanges actually advertise themselves as "Sarbanes Oxley Free Zones"!

At today's hearing, the Subcommittee is seeking to discover how investors use the 404 and 302 disclosures on internal control deficiencies when making stock purchases; we want to learn from our witnesses how Sarbanes Oxley has really affected the U.S. Stock markets in terms of liquidity, competitiveness, and overall health; we want to know what additional protection is provided by the costly Section 404, that Section 302 does not also provide; and we want to know what are the opportunity costs that investors and businesses alike must incur when companies spend between 1 and 4 million dollars to fully comply with Section 404.

This more precise understanding is critical to determine Section 404's full impact on U.S. businesses and the domestic stock markets and whether the current cost-benefit equation is net positive.

I look forward to hearing the testimony of all our witnesses today.